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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,864	11/17/2000	Brent D. McLaws	MC57-001 8952	
21567	7590 04/08/2003			
	JOHN ROBERTS G	EXAMINER		
601 W. FIRS SUITE 1300	T AVENUE	KIM, CHRISTOPHER S		
SPOKANE, V	WA 99201-3828	ART UNIT	PAPER NUMBER	
			3752	11
			DATE MAILED: 04/08/2003	//

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.		Applicant(s)	W.			
		09/715,864 MCLAWS ET AL						
	Office Action Summary	Examiner		Art Unit				
		Christopher S. Kim	l l	3752				
Period fo	The MAILING DATE of this communication ap r Reply	pears on the cover s	sheet with the co	rrespondence addre	9SS			
THE N - Exten after: - If the - If NO - Failur - Any re	DRTENED STATUTORY PERIOD FOR REPL MAILING DATE OF THIS COMMUNICATION. sions of time may be available under the provisions of 37 CFR 1.1 SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a repperiod for reply is specified above, the maximum statutory period to treply within the set or extended period for reply will, by statute the ply received by the Office later than three months after the mailing dispatent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, however ly within the statutory minim will apply and will expire Si a, cause the application to b	er, may a reply be timel num of thirty (30) days v X (6) MONTHS from the decome ABANDONED	y filed  vill be considered timely. e mailing date of this comn (35 U.S.C. § 133).	nunication.			
1)⊠	Responsive to communication(s) filed on 18	February 2003 .						
2a)⊠	This action is <b>FINAL</b> . 2b) The	nis action is non-fina	al.					
3)	Since this application is in condition for allow	ance except for for	mal matters, pro	secution as to the r	merits is			
Dispositi	closed in accordance with the practice under on of Claims							
4)🖂	Claim(s) 1-23 is/are pending in the application	n.						
4a) Of the above claim(s) 3,6-9,11,18 and 19 is/are withdrawn from consideration.								
5) 🗌	5) Claim(s) is/are allowed.							
6)⊠	6)⊠ Claim(s) <u>1,2,4,5,10,12-17 and 20-23</u> is/are rejected.							
7) Claim(s) is/are objected to.								
8) Claim(s) are subject to restriction and/or election requirement.								
Applicati	on Papers							
9) 🗆 -	Γhe specification is objected to by the Examine	er.						
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.								
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).								
11)☐ The proposed drawing correction filed on is: a)☐ approved b)☐ disapproved by the Examiner.								
If approved, corrected drawings are required in reply to this Office action.								
12) 🔲 🖯	The oath or declaration is objected to by the Ex	kaminer.						
Priority u	nder 35 U.S.C. §§ 119 and 120							
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).								
a) ☐ All b) ☐ Some * c) ☐ None of:								
1. Certified copies of the priority documents have been received.								
	2. Certified copies of the priority documents have been received in Application No							
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>								
14)□ A	cknowledgment is made of a claim for domest	ic priority under 35	U.S.C. § 119(e)	(to a provisional ap	oplication).			
a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.								
Attachment		priority under 00	2.0.0. 33 120 6					
l <u> </u>	e of References Cited (PTO-892)	4) 🗍 .lı	nterview Summary (	PTO-413) Paper No(s).				
2) 🔲 Notice	e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s)	5) 🔲 N		tent Application (PTO-1				
U.S. Patent and Tr PTO-326 (Rev		ction Summary		Part of Pa	per No. 11			

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#### **DETAILED ACTION**

## Response to Amendment

- 1. Amendment filed February 18, 2003 is acknowledged.
- 2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

## Claim Objections

3. Claim 1 is objected to because of the following informalities: in claim 1, line 3, "container" should read —applicator—. Appropriate correction is required.

## Claim Rejections - 35 USC § 102

4. Claims 1, 2, 4, 5, 10, 13-17, 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Inglis (956,101).

With respect to claims 1, 2, 4, 5, 13-17, 21 and 23, Inglis discloses an identifier label applicator comprising: a container 1; a plurality of predetermined identifier labels (and base fluid) 2; a discharge aperture 12; a fluid intake 8; a dynamic fluid conduit 9, 21; a container valve 20. Regarding the recitation of "dissimilar," the specification does not define the scope of "dissimilar." It has been considered to define any two fluids which are not the same.

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With respect to claim 10, the bottom side is not particularly defined. Therefore, any bottom side having a cross-sectional area less than a cross-sectional area of portions above the bottom in the device of Inglis meets the claimed limitation.

5. Claims 1, 2, 4, 5, 10, 12-17 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by McRitchie (3,236,459).

With respect to claims 1, 2, 4, 5, 13-17 and 21-23, McRitchie discloses an identifier label applicator comprising: a container 18; a plurality of predetermined identifier labels (and base fluid) 190; a discharge aperture 130; a fluid intake (connection to tube 40); a dynamic fluid conduit 40, 182; a container valve 42. Regarding the recitation of "dissimilar," the specification does not define the scope of "dissimilar." It has been considered to define any two fluids which are not the same.

With respect to claim 10, the bottom side is not particularly defined. Therefore, any bottom side having a cross-sectional area less than a cross-sectional area of portions above the bottom in the device of McRitchie meets the claimed limitation.

# Claim Rejections - 35 USC § 103

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over McRitchie (3,236,459) in view of Healey et al. (5,425,918).

McRitchie discloses the limitations of the claimed invention with the exception of the ultra violet detectable particles. Healey et al. discloses, in column 1, lines 23-24, fluorescent molecules. It would have been obvious to a person having ordinary skill in

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the art at the time of the invention to have used the device of McRitchie to spray the labels of Healey et al. to spray large areas.

## Response to Arguments

7. Applicant's arguments filed February 18, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that "predetermined" labels are disclosed, the specification discloses types of labels without limitations to include: micro-labels, DNA identifiers, synthetic DNA labels, biological elements, rare earth minerals, UV detectable particles or substances, micro dots, data dots, unique or identifiable chemical compounds and others. Therefore, the disclosure and claim recitation of "predetermined" has been considered to define breadth "without limitations."

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

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#### Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Christopher S. Kim

Examiner Art Unit 3752

CK April 7, 2003